

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4934 of 2020

Arising Out of PS. Case No.-153 Year-2018 Thana- AKHODHIGOLA District- Rohtas

Manoj Kumar Singh @ Manoj Kumar Choudhary Son of Late Keshwar Choudhary @ Ram Keshwar Singh, Resident of Village- Karan, P.S.- Baghaila, District- Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhinay Raj, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL ORDER

2 29-02-2020 Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

Petitioner apprehends his arrest in connection with Akodhigola P.S. Case No. 153 of 2018 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

Neither petitioner was caught nor anything was recovered from his conscious possession and the name of the petitioner was disclosed by co-accused persons, who were caught on the spot. However, the apprehended persons only disclosed this fact that the seized liquor was to be delivered to the petitioner and except the aforesaid material, there appears to be nothing against the petitioner.



Learned counsel appearing for the petitioner submits that even if, the statement of apprehended accused persons assumed to be true, then also, there is nothing on the record to show that the seized liquor had been purchased by the petitioner and, therefore, no prima-facie case under the provision of Bihar Prohibition and Excise Act, 2016 is made out against the petitioner. He further submits that moreover, co-accused, namely, Prabhat Kumar whose motorcycle was seized from the place of occurrence has already been granted privilege of anticipatory bail by a co-ordinate bench of this court, vide order, dated 19.09.2018 passed in Cr. Misc. No. 58758 of 2018.

It is true that Section 76(2) of the Bihar Prohibition and Excise Act, 2016 restricts to entertain petition under Section 438 of the Cr.P.C. in the case registered under the above stated Act but in the present case even from perusal of the written report of the informant, prima-facie, no case under the Bihar Prohibition and Excise Act, 2016 appears to be made out against the petitioner and, therefore, in my view, in the present case, petition under Section 438 of the Cr.P.C. filed on behalf of the petitioner is maintainable.

Considering the aforesaid facts and circumstances as well as submissions of the parties, this anticipatory bail petition



is allowed and it is ordered that the petitioner, above named, in the event of his arrest/surrender within six weeks from the date of receipt of this order to the court concerned, shall be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Additional District and Sessions Judge-cum-Special Judge, Excise, Rohtas, Sasaram in connection with Akodhigola P.S. Case No. 153 of 2018 subject to conditions as laid down under Section 438(2) of the Cr.P.C.

However, it is made clear that the aforesaid observation given in this order shall not affect the merit of the case.

(Hemant Kumar Srivastava, J)

Rajeev
Kumar/Ved

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